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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,215

09/11/2003

Stephen E. Walsh

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6555

7590 11/21/2007
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EXAMINER

NAFF, DAVID M

ART UNIT

PAPER NUMBER

1657

MAIL DATE

DELIVERY MODE

11/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,215

Applicant(s)

WALSH ET AL.

Examiner

David M. Naff

Art Unit

1657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,5-8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3, 5-8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

An amendment of 10/26/07 amended claims 3, 5-7, added new claim 11, and canceled claims 1, 2, 4 and 9.

Claims examined on the merits are 3, 5-8, 10 and 11, which are
5 all claims in the application.

Claim Rejections - 35 USC § 112

Claims 3, 5-8, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the
10 invention.

In line 4 of claim 10 and line 12 of claim 11, it is uncertain as to structure and operation when the collection chamber surrounds only at least a portion of the center cup. The specification describes only a collection chamber completely surrounding the center cup.

15 ***Response to Arguments***

The amendment urges that there may be embodiments where the a portion of the center cup has nothing collecting the material exiting from the cup, or there is a wall or other structure that returns or deflects the material exiting from the cup instead of collecting that
20 material. However, these embodiments have not been described in the specification, and it would be unclear from the specification as to the precise structure and operation of such embodiments.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

5 A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10 Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Dorian et al (5,643,594) (listed on form 1449).

The claim is drawn to a spinning disk encapsulation apparatus containing a center cup, outer collection chamber, means for rotating the center cup, means for introducing a fluid stream of material
15 comprising biological material and a polymeric coating solution into the center cup, and means for forming the fluid stream into singulated lines as the center cup is rotated.

Dorian et al disclose a spin encapsulation apparatus for encapsulation that is the same as the presently claimed spinning disk
20 encapsulation apparatus. See Figures 1 and 2, and description thereof in the specification. The inner surface of a conical sidewall of a cup can have grooves (col 8, lines 65). Centrifugal force created by rotating the cup of Dorian et al will inherently form a singulated line of beads exiting the cup.

25 ***Response to Arguments***

The amendment urges that the grooves of Dorian et al are not intended to singulate a fluid stream of material, but are intended to

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disperse the fluid stream and control thickness of material ejected from the cup. However, even if the grooves of Dorian et al do not form a singulated line of material, rotataing the cup will inherently form a singulated line of beads from the cup due to centrifugal force.

5 See Figure 1 of Dorian et al where a single line of beads is shown exiting the spinning cup.

Conclusion

Claims 3, 5-8 and 11 are free of the prior art.

10 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after
15 the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX
20 MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is 571-272-0920. The examiner can normally be reached on Monday-Friday 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

5 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For
10 more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system,
15 call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David M. Naff
Primary Examiner
Art Unit 1657

DMN

11/16/07